

1
2
3
4
5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
7

8 GARY WALLACE,

9 Petitioner,

2:15-cv-00811-JCM-VCF

10 vs.

ORDER

11 ATTORNEY GENERAL, *et al.*,

12 Respondents.
13 _____/

14
15 This action is a petition for a writ of habeas corpus by Gary Wallace, who apparently was
16 incarcerated in the Clark County, Nevada, Detention Center when he initiated the action.

17 Wallace submitted what the court understands to be a petition for a writ of habeas corpus
18 (ECF No. 1) on April 29, 2015, but did not then pay the \$5.00 filing fee or submit an application to
19 proceed *in forma pauperis*. On May 18, 2015, the court ordered Wallace to pay the filing fee or
20 submit an application to proceed *in forma pauperis*, and granted him 30 days to do so (ECF No. 2).
21 The court warned that failure to comply with that order would result in dismissal of this action.
22 Wallace did not, during the time allowed, pay the filing fee or submit an application to proceed
23 *in forma pauperis*. Therefore, on July 2, 2015, the court ordered the action dismissed, and judgment
24 was entered accordingly (ECF Nos. 3, 4).
25
26

1 Then, on July 6, 2015, Wallace filed a notice of change of address (ECF No. 5), indicating
2 that he is no longer incarcerated, and providing a mailing address in North Las Vegas, Nevada.

3 On July 6, 2015, Wallace also filed an application to proceed *in forma pauperis* (ECF No. 6).

4 The court treats Wallace's July 6 filings as including a motion for relief from judgment under
5 Federal Rule of Civil Procedure 60(b). The court will deny that motion for relief from judgment.

6 The application to proceed *in forma pauperis* includes a financial certificate that appears to
7 provide information regarding Wallace's financial status in jail on June 1, 2015. However,
8 Wallace's notice of change of address indicates that he is no longer incarcerated; therefore, the
9 financial certificate provides little information regarding Wallace's current financial status.
10 Furthermore, Wallace did not complete the form application. Item 4 in the application calls for
11 Wallace to state the "[a]mount of money that [he has] in cash or in a checking or savings account."
12 See Application to Proceed *in Forma Pauperis* (ECF No. 6), p. 2. Wallace did not answer that
13 question. See *id.* Without that obviously important information, the court will deny the application
14 to proceed *in forma pauperis*. Wallace still has not paid the filing fee for this action. The court
15 denies the motion for relief from judgment on this ground.


16 Moreover, and in the alternative -- even if the court were to grant Wallace leave to proceed
17 *in forma pauperis* and screen Wallace's habeas petition under Rule 4 of the Rules Governing Section
18 2254 Cases in the United States District Courts -- the court has examined Wallace's petition for writ
19 of habeas corpus (ECF No. 1), and finds that, on its face, it is wholly without merit. Among other
20 shortcomings: the petition is not on the form required by the court for prisoner habeas petitions, and
21 therefore does not provide basic information necessary to the court's review of his petition; the
22 petition does not identify the judgment Wallace seeks to challenge (*see* 28 U.S.C. § 2254); the
23 petition does not show that Wallace is "in custody" (*see id.*); the petition does not indicate that
24 Wallace has exhausted his state-court remedies with respect to any claim for habeas corpus relief
25 (*see id.*); and, perhaps most importantly, the petition does not state any claim for habeas corpus relief
26 that would be cognizable in this federal habeas corpus action (*see id.*). Therefore, on the additional

1 ground that Wallace's habeas petition is patently meritless, the court denies Wallace's motion for
2 relief from judgment.

3 **IT IS THEREFORE ORDERED** that petitioner's application to proceed *in forma pauperis*
4 (ECF No. 6) is **DENIED**.

5 **IT IS FURTHER ORDERED** that the court construes the material filed by petitioner on
6 July 2, 2015, as including a motion for relief from judgment, pursuant to Federal Rule of Civil
7 Procedure 60(b), and such motion is **DENIED**.

8
9 Dated July 16, 2015.

10
11 
12 UNITED STATES DISTRICT JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26